



December 12, 2001

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
Box 850137
Mesquite, Texas 75185-0137

OR2001-5805

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156045.

The City of Mesquite (the "city") received a request for ten categories of information relating to the issuance of a speeding citation, a specified police officer and a speed detection device. You claim that the requested information is excepted from disclosure under sections 552.103, 552.108 and 552.117 of the Government Code. You have stated that the city does not hold all the information requested. You have, however, enclosed seven pages of documents that you seek to withhold. We assume that you have released any remaining requested information. Gov't Code §§ 552.301, 552.302. Additionally, we note that you have submitted a copy of the front side of the citation issued to and signed by the requestor which you do not seek to withhold. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), 552.301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the requested information pertains to pending criminal charges resulting from a traffic citation issued to the requestor and that "the requestor has contested the citation and a court date has been set for November 8, 2001." You additionally state that "release of the requested information could impede the prosecution of the criminal charge, thus interfering with law enforcement." We conclude that the city may withhold the marked information

under section 552.108(a)(1) because release of the information "would interfere with the detection, investigation, or prosecution of crime." *See Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. - Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

You also raise section 552.117 of the Government Code. Which excepts from disclosure the home address, home telephone number, or social security number of a peace officer, as well as any information that reveals whether the employee complies with section 552.024. *See* Gov't Code 552.117(2). In releasing responsive information, the city must withhold the information we have marked relating to an employee of the city that under section 552.117.

In light of our conclusions under sections 552.108 and 552.117, we need not address the other exception raised. This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Simpson", with a stylized, flowing script.

Greg T. Simpson
Assistant Attorney General
Open Records Division

GTS/sdk

Ref: ID# 156045

Enc. Submitted documents

c: Mr. William Bibb
7209 Wilshire Drive
Rowlett, Texas 75809
(w/o enclosures)